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Rights of the Child

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SUMMARY RECORD OF THE 571st MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 28 September 1999, at 3 p.m.

Chairperson: Mrs. MBOI

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The meeting was called to order at 3 p.m.

CONSIDERATION OF REPORTS OF STATES PARTIES (agenda item 4) (continued)

Initial report of Mali (continued) (CRC/C/3/Add.53; HRI/CORE/1/Add.87; CRC/C/1/(Future)6)

1. The CHAIRPERSON invited the delegation of Mali to respond to the questions put by the Committee members at the previous meeting.
2. Mrs. DIARRA THIERO (Mali) said that before addressing the Committee's questions, she would like to take the opportunity to introduce the Malian children's delegation, which had come to Geneva for the forthcoming commemoration of the tenth anniversary of the Convention.
3. Forced marriage had existed in Mali prior to the adoption of the Marriage and Guardianship Code, which had revolutionized the institution of marriage in the country by requiring for the first time that spouses should consent to their union. The Code, which was already over 30 years old, had established the legal age for marriage with parental consent at 18 for boys and for girls at 15, or in exceptional cases and with the authorization of the Ministry of Justice, at 13. Both men and women could marry without the consent of their parents at 21, the age of majority. One of the Code's objectives had been to end the practice of early marriage, but it had failed to do so, as certain ethnic groups such as the Peuls and the Sarakoles continued to marry off their young at an early age.
4. With the current revision of the law of the family and in view of the possible ratification of the Convention on the Elimination of All Forms of Discrimination against Women, discrimination between the sexes would be removed, and the legal age for marriage for both sexes would be set at 18 with and 21 without parental consent. It was felt that 18 years was the minimum age required to ensure that sufficient time was devoted to schooling. A committee had been set up to combat practices which endangered the health of women and children, and early marriage had been identified as harmful. Apart from the standard-setting role the Government could play, a serious effort had to be made to raise awareness and educate the population regarding the complications that could arise from early marriage, especially in the form of certain illnesses. The Marriage and Guardianship Code had ended the practice of marriages arranged at birth by requiring a declaration of consent by the future spouses prior to the marriage ceremony.
5. In Mali, as in other African countries, castes had traditionally played a specific role as social regulators. However, there was no problem with respect to discrimination against children or for that matter any other members of specific castes in Mali, as members of castes were well received and socially integrated in Malian society. The Constitution established that all people were born free and equal.
6. The delegation took note of the suggestion to make the Ombudsman a focal point for problems related to the rights of the child. The terms of reference

of the Ombudsman's office were set by the President of the Republic. The Committee's suggestion would be transmitted to the President as soon as a meeting could be arranged.

7. Replying to a question about representation of the media on the subcommission dealing with the survival of children, she said it was true that the Ministry of Communications had not been included as a member. However, the decree establishing the subcommission was due to be revised, and its chairmanship would no doubt probably be reassigned to the Ministry for the Advancement of Women, Children and the Family. The revision of the decree would take into consideration a number of changes, including participation in the subcommission. Clearly, the media had to be involved in the promotion of the rights of the child. The Government had already made an effort to teach a large number of journalists from local and rural radio stations about the Convention, and follow-up courses were scheduled.

8. Abortion and infanticide were both illegal. It was considered that their prohibition was a safeguard of the rights of the child. While it would be difficult to hide cases of infanticide, illegal and undeclared abortion was practised by persons without medical training and did indeed take place in secret. When complications arose or a case was reported, the woman having the abortion and anyone acting as an accomplice, be it the practitioner or a friend, were prosecuted.

9. Youth organizations had the right to be heard, especially on subjects affecting their members. The mention of "respect for cultural values" simply referred to the extremely important aspect of Malian and African culture, according to which elders were to be respected and any behaviour insulting to them was to be avoided. Such values were in no way at variance with the right to freely express opinions and to take part in making decisions.

10. Mr. A. MAIGA (Mali), addressing article 12 of the Convention, said that children had a right to have a say and to take part in decisions, not only regarding the family, but also in the management of their schools and in their general environment as well. Children's associations existed in Mali and carried out their programmes with their own resources. Under Malian law, children had the right to be heard by the police, judges and lawyers. Their opinions were even taken into account when their families made choices concerning the acquisition of consumer goods, albeit within certain limits. According to the Government's interpretation, the limitations applied for instance to children engaging in illegal or harmful activities, such as drug use or viewing pornography.

11. Mrs. KARP said that she had understood that the testimony of child witnesses was considered as information rather than evidence in court proceedings. Was less weight given to the testimony of children? Were there any other procedural conditions attached to it?

12. Mrs. DIARRA THIÉRO (Mali) explained that statements of minors in court were duly taken into consideration by the judge, and certainly influenced the hearing of cases and sentencing. The use of the term "for information" rather than "as evidence" was perhaps attributable to the fact that Malian law derived from the Napoleonic Code and civil law rather than common law.

13. Mr. A. MAIGA (Mali) said the problem of the "garibu" children was a very sensitive issue. Those children had traditionally been led by marabouts and would, in small towns or villages, request food from the villagers. Originally, that was not problematic, as the villagers were generally acquaintances and would willingly feed the children who were studying with the marabout. However, some marabouts had begun to bring groups of 50 or 60 children to major cities, where the feeling of solidarity was much less developed. Since they had no means of support, the marabouts sent the children out to beg for food, thus exposing them to all sorts of hazards and risks.

14. There were also children who were sent to beg by their parents, many of whom were handicapped. After a period of soliciting money for their parents, children in such situations often set out on their own. Such beggars were found in all major African cities, and in Burkina Faso, Senegal and Mali programmes were being set up to eradicate the practice. Although begging was illegal, it was not easy to stop, especially when it was associated with the traditional activities of powerful religious leaders.

15. As for the dissemination of the principles and provisions of the Convention, activities to train radio commentators and journalists had been particularly intensive since 1996. There were currently 80 independent radio stations in Mali, and the Government had trained nearly 350 radio staff in the rights of the child. Many of them had also received training in social policy, so as to encourage them to take the Convention into consideration when preparing radio programmes. The Government had also produced a kit for teams carrying out training in the rights of the child, and was drawing up an information programme which would target specific groups, including women, children and locally elected leaders. In addition, in 1998 a number of officers in the security forces had received instruction in the principles of the Convention and had shown a very high degree of interest.

16. Adults took part in all the activities of the "Children's Parliament", and the regional commissions included representatives of the Government and non-governmental organizations at the local, national and international levels.

17. Mr. TRAORE (Mali) explained that children born out of wedlock enjoyed the right to seek out their parents and request recognition. There was absolutely no organized social or legislative discrimination against such children or in courts of law. No application by a child, duly accompanied by his or her legal guardian, to a judge to take measures with regard to property was ever rejected, nor was there any barrier to such children's involvement in commercial activities. However, since there was no legislation on inheritance, the transfer of property was governed by customary law. Mali was a traditional country, in which children born out of wedlock received little support in that regard. Although natural children could not obtain the transfer of parental property, they enjoyed the same rights in the courts as other children and the law prevailed in any conflict between custom and law.

18. Mr. KOITA (Mali) said his research had revealed that Mali had not maintained its reservation to article 32 of the Convention concerning employment. The minimum age for admission to employment was 14, or 13 if the

child had completed the required six years of primary education. There were some apprenticeship schemes involving the employment of younger children, in which whatever work they performed was intended as training.

19. Mr. BALLO (Mali) said he was unaware of any problems posed by the caste system in Mali, which was a domestic tradition rather than a form of discrimination. Each person had a job to do and that job was determined by marriage and family relationships. While there was no legal discrimination, other practices were also part of the caste tradition, which could not be legislated against.

20. On the essential question of public assistance and the monitoring of aid for child-specific activities, he said that because of its economic situation the Malian Government had for years focused on the most essential social services. The 20/20 initiative - whereby 20 per cent of a country's resources were earmarked for basic social services - adopted at Mali's behest, had identified a number of pilot countries, among which, ironically, Mali had not been included. Given the difficulty of differentiating between basic and intermediate services, Mali had subsequently defined what it viewed as basic social, health and education services, and had commissioned studies to target specific child-related health activities and to serve as a guide in making subsectoral, sectoral and intersectoral choices. Assessment and programming days were used to reflect on departmental and interdepartmental decisions. With regard to the question of assistance, an aid review committee, with OECD support, studied how public services and aid should be allocated across the country. Given Mali's scant resources, hard choices had to be made in order to attain the 20/20 target.

21. Mr. M. MAIGA (Mali), in reply to three questions from Mrs. Ouedraogo, said that each year on 16 June, African Children's Day, instituted in 1994, a particular theme related to the Convention was chosen and a countrywide campaign was launched. The national theme for 1999 was the child's place and role as a citizen in the community. The information campaign was implemented through the training of village, regional and national announcers on public and private stations. Although many people in rural areas and villages were still ignorant of the Convention, local chiefs throughout the country were striving to fill the gap. The Convention had been translated into the most used local language, Bamana. Non-governmental organizations (NGOs), which were much closer to the grass-roots communities, were also extremely dynamic in their awareness-raising activities. The annual national forum provided the opportunity for democratic discourse in which all segments of the population could interrogate the Government on its policies and action.

22. Mrs. DIARRA THIERO (Mali), responding to questions from Mrs. Ouedraogo and Mrs. Sardenberg on how the best interests of the child were reflected in Mali's policy, said that the draft Family Relations Code would be submitted to a nationwide consultation with reference to guardianship and filiation. Recognition of a child born out of wedlock currently rested with the father, and reform was under consideration to extend that right to the mother, the lack of which had given rise to dramatic situations in some families. The mother should have the right to claim that a man was or was not the father of her child. Sometimes a mother categorically declared on a child's birth certificate that the father was unknown, while a particular man claimed

paternity. It was felt that the man should also have the right to produce evidence of his paternity in such situations. The reform was intended to protect the best interests of the child.

Civil rights and freedoms

23. Mrs. DIARRA THIERO (Mali) said that some publicized instances of police brutality in 1977 had predated the democratic revolution that had taken place in the country, making it a free and democratic nation. Current legislation specifically forbade the police to use violence against children or, indeed, mete out cruel or degrading treatment to anyone. All persons questioned by the police, including children, were entitled to the presence of a lawyer, even during preliminary questioning by the police. The State was obliged to pay the fee if the parents could not afford it.

24. Corporal punishment was prohibited in Mali's SOS Children's Villages (SOSCV). Protection was provided by the Ministry for the Family. There was currently a text to regulate private and public child-care centres. Reported cases were thoroughly investigated, through interviews with all concerned: the child, the plaintiff, the staff, other children in the centre and parents. A report was drawn up and copies submitted to all parties for rebuttal or acceptance. A recent case in one SOS Village would shortly be ruled on by the Head of State, who was firmly committed to the protection of children's rights. Corporal punishment was banned in schools and any teacher found guilty of it was sanctioned and could be dismissed.

25. She had no knowledge of censorship of children's correspondence in schools. However, literate parents did have the right to open their children's mail in order to ensure that they did not receive communications that could endanger them or did not indulge in deviant behaviour. The purpose was not to deprive children of their rights, but to preserve a degree of parental control in protecting their best interests.

26. Female genital mutilation was practised by 98 per cent of the population, and a poll of women had shown that they wished to continue the practice. Her Ministry, the Ministry for the Advancement of Women, Children and the Family, had prepared, through the National Action Committee to Combat Practices Harmful to the Health of Mothers and Children, which she chaired, a plan of action to run from 1999 to 2008, in an effort to eradicate the practice. The first phase, scheduled to end in 2003, and consisting of training and awareness-raising, would shortly be launched. A permanent secretariat, attached to the Ministry, had recently been created to coordinate all activities under the plan of action. It was impossible to legislate against voluntary excision, concerning which, however, the Malian Penal Code contained an article. It was mothers themselves who took their daughters for the operation, and mothers could not be taken to court. While training and awareness should be the first steps towards abolition of the practice, Mali would also avail itself of Burkina Faso's positive experience and consider the drafting of a legal text by 2003, although it was equally aware of Senegal's failed attempt at legislation.

27. Mr. BALLO (Mali) said the Ministry of Health, Solidarity and Elderly People was working with health centres on a draft civil status formula. All

births were recorded in a register, and the relevant documents were transmitted to the village civil status office, on which basis the birth certificate was prepared. Where there was no health structure for dealing with births, they were registered by village moderators. Although, owing to the obvious difficulties, coverage was not yet nationwide, that was the Government's aim, so that every Malian without exception would possess proper documentation. The same format existed for nomadic areas. Since nomadic communities were constantly on the move, mobile workers also assisted with registrations. While nomadic and sedentary communities received similar treatment, it was necessarily adapted to each area.

28. Mrs. DIARRA THIERO (Mali) added that it was also possible to obtain a birth certificate through the court system.

29. Mr. B. MAIGA (Mali), replying to Mrs. Ouedraogo's question about the travelling libraries, said that most sectors had a municipal library, which was supplemented at the local level by mobile periodicals libraries serving the urban centres and some villages. The travelling library system had been developed along the railway lines because railways were a heavily-used means of transport which also provided passengers with time to read.

30. Corporal punishment was prohibited in the schools, but until recently no follow-up mechanism had existed for verifying compliance other than through the school principal. To correct that and other problems in Malian schools, the Ministry of Basic Education, together with all the school's partners - parents, pupils, teachers and teachers' unions - had established a school management committee, which dealt with all areas of school life.

31. Mrs. DIARRA THIERO (Mali) added that corporal punishment was prohibited and heavily penalized in adult prisons and, a fortiori, in children's remand centres. The statutes of both private and government institutions for minors prohibited corporal punishment and representatives of the corresponding ministry were permitted to conduct surprise visits to verify compliance. Concealed incidents of corporal punishment might occasionally occur, but the situation in general did not reflect a lack of will by the authorities to correct the problem.

32. In reply to another question, she said that children in difficulty frequently participated in activities organized by university students during school vacations. Members of the Government contributed financially and in kind to such activities and frequently awarded honorary diplomas to the students who conducted them.

33. Regarding the censorship bill, she explained that the National Film Censorship Committee had been revived in response to pressure from children's and women's rights groups and even expanded as a result of a decree issued by the Council of Ministers. Following protests to the Ministry of Communications, the groups in question had even succeeded in having posters depicting pornographic films removed from the entrances to cinemas, where children had been able to see them. It was, unfortunately, impossible to censor video films, which reached Malian television screens directly through foreign television stations. In such cases it was the family's responsibility

to help children select appropriate television programmes and the State's role was limited to awareness-raising and information campaigns, in cooperation with NGOs.

34. Of greatest concern with regard to films, however, was the problem of violence. Foreign television had brought previously unknown forms of violence to Mali, which had had a particularly negative effect on young people. It was for the international community to address that problem, by approaching the countries owning the television stations that broadcast such films. Mali had for the moment been spared some of the worst forms of juvenile violence, such as mass killings of the type recently seen in the United States, but it knew that it was not immune to such problems, and the Ministry of Youth was doing its best to forestall them.

35. Concerning the structure for reporting child abuse, she referred to the community disapproval of corporal punishment mentioned in the reply to question 15. Unlike Europe, Mali was still a highly community-oriented society, and anyone hearing cries or other signs of violence usually intervened directly with the head of the family and even complained to the police if necessary. The authorities developing family policy would endeavour to preserve that traditional system of conflict settlement, which reflected the cultural values of Malian society and had functioned very effectively so far.

36. The CHAIRPERSON invited the members of the Committee to ask follow-up questions on clusters IV and V of the list of issues.

37. Mrs. KARP asked what was being done to combat forced marriages other than those arranged from birth, which she understood existed in Mali, in complete violation of human rights. Second, polygamy was apparently still practised there. In view of research proving the negative effects of polygamy on children, she wondered whether any attempt was made to enlighten the public in that respect. She would also like to know how a child's freedom to lodge a complaint against a parent was compatible with the requirement that the child should be accompanied by a parent or guardian when giving evidence. Finally, she wondered whether the authorities had considered using the national insurance system to recover maintenance for children.

38. Mrs. TIGERSTEDT-TAHTELA asked whether national policy permitted therapeutic abortions, what the penalty was for a woman who obtained an illegal abortion and whether such a woman was able to receive medical and psychological treatment. She would also like to know the status of children born out of wedlock and whether an under-age woman who became pregnant out of wedlock was punished.

39. Mrs. OUEDRAOGO agreed with the delegation's comments on the role of parents in supervising children's access to films and television programmes, which was particularly important in connection with the private video showings which often took place in villages throughout the subregion. Regarding excision, she agreed that a law would be premature in the context described by the delegation, but welcomed the Government's political will to combat that practice. She noted that there did not appear to be a problem of discrimination against castes in Mali. Regarding violence, she had been

pleased to hear that police officers and gendarmes received training relating to the Convention, and asked whether there were plans to institute such training in police and gendarmerie training schools.

40. Concerning family environment, she asked about the role of the parents in divorce proceedings, whether the problem of non-registration of Muslim religious marriages existed in Mali, and if so what was being done to address it. She would also like to know how maintenance was recovered in cases of traditional marriages not registered at the town hall. Regarding informal adoption, she asked for further details about the membership and operation of the National Committee to Study Inter-Country Adoption and Combat Traffic in Children mentioned in the reply to question 18. She also asked what was done to prevent informal adoptions from leading to the exploitation of children. In connection with the reply to question 19, she asked whether the job training for "garibu" might be extended to all children. As the delegation had stated that begging was prohibited, she asked what was done to meet the needs of people who begged out of economic necessity, and whether Mali experienced the problem, common in the subregion, of women who "rented" children in order to beg. Lastly, she asked what efforts were being made to combat the breakdown of emotional ties between parents and between parents and children referred to in paragraph 57 of the report.

41. Mrs. SARDENBERG, referring to the reply to question 18, asked how the traditional form of adoption known as "kalifa" operated and how the Government's framework agreement with NGOs on foster care was followed up. The reply to question 19 stated that there were no statistical data on violence, yet the Committee had received reports of trafficking in children at Mali's borders. She would like to know more about the Government's efforts to combat such trafficking, which affected the entire subregion and needed to be addressed through concerted subregional and international action.

42. Mrs. DIARRA THIERO (Mali), replying to the questions on marriage and polygamy, said that polygamy was officially recognized as a form of marriage in Mali. Furthermore, it was accepted by Islam and three quarters of the population were Muslim. On the day of the wedding, the couple decided whether they would opt for a polygamous or monogamous marriage. In a polygamous situation, the property and assets of the spouses were separated.

43. A man could not have more than four wives, each wife representing a separate household. Nevertheless, polygamy could prove to be an extremely frustrating experience for women. Unlike the trend in Europe, in Mali a single woman tended to be looked upon askance and was not given the respect conferred upon the married woman. Consequently, many women accepted the situation in search of respectability.

44. Of course, a polygamous marriage stirred up competition among the wives for the favour of their husband and men took advantage of the situation to mete out unfair treatment to both wives and children. Polygamy also provided the means to have a large number of children who could help on their father's plantation. Sometimes, it was the women who asked their husbands to take another wife, as in the case of rural women who were often so overworked that they saw another wife as potential relief.

45. Under the pressure of economic factors, polygamy might one day disappear. However, if the law on polygamy were to be repealed, even women would oppose it because such had been the situation for generations and women generally resigned themselves to it. Adultery was punishable by law, but men in Mali wielded so much power that only a few women resisted and sought to end the union in divorce. In any case, polygamy could arise even in an officially monogamous marriage.

46. Many people preferred to marry in a religious ceremony only, ignorant of the fact that such marriages were not valid under the law. For a marriage to be legally valid, a civil ceremony had to take place. As a result, many women found themselves eventually deprived of a widow's pension because they were not, in fact, the legal wives of their late husbands. The Government was currently considering levelling sanctions against the couple's parents for allowing a religious wedding, since the ceremony normally required their consent.

47. The CHAIRPERSON, referring to the situation in her own country, Indonesia, also a Muslim country, where it was the responsibility of the religious leader to inform the civil authorities, asked whether such a measure had been considered by the Malian Government.

48. Mrs. DIARRA THIERO (Mali) reiterated that in Mali the prevailing legislation provided for civil marriages, even if a religious ceremony was held to "bless" the union.

49. In the case of ill-treatment of a child, a parent would be willing to accompany the child to report it to the police or health authorities if that parent was not responsible for the bad treatment. Otherwise, children were free to lodge complaints themselves with human rights organizations or the juvenile judge.

50. With respect to maintenance, the Government had difficulty penalizing non-payment of maintenance. The courts demanded child support in the case of divorce or a request made by the mother of a child born out of wedlock. However, considering that divorce did not take place by mutual consent in Mali, a father might refuse to pay alimony to spite the mother. In addition, the lengthiness and prohibitive cost of civil proceedings were deterrents to women without the means to institute them. Mali was studying the possibility of imitating the system employed in Tunisia, whereby fathers would have maintenance deducted directly from their salaries and paid into a fund, supplemented by public funds, from which mothers could be paid.

51. Abortion was punishable by law. However, if a young girl became pregnant subsequent to a rape and aborted the child, the authorities tended to be sympathetic to her case. In cases where both the lives of the mother and the unborn child were in danger, doctors would explain the situation to the husband/expectant father and ask him to choose between the life of his wife or his unborn child. Men tended to opt for saving their wife's life, reasoning that if she lived she could probably have another child. The authorities also tended to be lenient in such cases.

52. Where a clandestine abortion had been badly performed, leaving sequelae, it would be incumbent upon the doctor consulted to inform the authorities. However, some doctors chose to assist the patient without passing through the legal channels. With respect to HIV/AIDS, the delegation would obtain up-to-date information on whether or not and how the problem was affected by the latest legal reforms.

53. Replying to the question concerning children born out of wedlock, she said that traditions persisted in Mali, where contraception had been taboo for years. In the past, however, unmarried girls who became pregnant might have been expelled from school whereas they were currently allowed to continue their education. What was more, the parents of those girls would accept the offspring, whereas in the past the girl's situation might have been perceived as a disgrace. Of course, there were a few cases where the traditional view prevailed.

54. As to harmful exposure of children to certain video material, it was indeed a problem, especially with the increased accessibility to modern technology. However, it was a question of raising awareness and the Government intended to address that.

55. With regard to adoption, it was customary for persons to assist a sibling in financial difficulty by taking one or more of the latter's children and raising them as their own. The same applied if a child from the rural area had to attend school in the city; he would be sent to live with a city-dwelling relative or even a non-related family who would treat the child as their own. In the event of ill-treatment, neighbours or the child himself could report the abuse.

56. Replying to the question by Mrs. Ouedraogo on the tradition concerning twins, she confirmed that the custom also existed in Mali. Twins had to be taken out to beg as a way of getting rid of what was believed to be a spell cast on them for being born twins in the first place. Initially it was not meant to be a source of income. However, a report carried out on beggar women in Bamako had revealed that some parents were practising the custom for pecuniary gain. The tradition was so deeply entrenched that it would be difficult to uproot it in the near future and the Government needed all the help it could obtain from civil society. The delegation could not promise that that predominantly urban practice would have been eliminated by the time the next report was submitted to the Committee but hoped that improvements would have been made by then.

57. Many children resorted to living on the streets because of problems at home. Some were placed in centres and from there efforts were made to reintegrate them in their families; others were sent to work as apprentices. In fact, the reason the centres were day centres without providing facilities for spending the night there was to encourage children to return home to their families.

58. As to the cross-border trafficking of children, she had herself conducted a mission which had revealed that Malian children had been taken across the border to Côte d'Ivoire to work on Ivorian plantations in deplorable conditions, often without pay. The Government had drafted a

short- and long-term plan aimed at stemming the problem and had sensitized all the various actors, including judges, the police, religious leaders, transport services and regional governors. Time-frames had been set for the objectives.

59. UNICEF had assisted in repatriating some of the children to Mali. Forty-six children had thus been returned to their parents. It should be pointed out that the same child had never undergone the experience a second time. However, as children did not speak to their peers about their experience, the Government had assumed the role of raising public awareness and had launched an information campaign using the print and electronic media, and had also prepared a draft convention.

60. The CHAIRPERSON reminded the delegation that there were outstanding questions on forced marriages, the possible introduction of the Covenant in the curriculum of police academies and foster care to be answered, which would be deferred to the next meeting.

The meeting rose at 6.05 p.m.